

UNITED STATES DISTRICT COURT

DYLAN PLUTA,

CASE NO. \_\_\_\_\_

Plaintiff

V

Hon. \_\_\_\_\_  
United States District Judge

UNITED STATES OF AMERICA/  
U.S. POSTAL SERVICE and  
EDWARD SCOTT DUNBAR,  
Jointly and severally,  
Defendants

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**COMPLAINT**

There is no other pending or resolved civil action arising out of the transaction or occurrence alleged in the Complaint.

Plaintiff states:

1. Plaintiff is a resident of Genesee County, Michigan.
2. Defendant is the United States of America/U.S. Postal Service ("USA").
3. Defendant Edward Scott Dunbar ("Dunbar"), on information and belief, resides at 1306 Thornridge, Grand Blanc, Michigan 48439 and is an employee of the U.S. Postal Service.
4. Plaintiff is granted authority to make this Complaint pursuant to the United States Code, including 28 USC 2674, which provides that Defendant USA is

liable to Plaintiff “in the same manner and to the same extent as a private individual under like circumstances”.

5. Plaintiff has exhausted all administrative remedies available to Plaintiff and Defendants. See correspondence from Defendant USA’s agent/employee representative attached as Exhibit A which denied the relief requested by Plaintiff.
6. Jurisdiction exists in this Court as alleged pursuant to the United States Code, specifically 28 USC 1346(b).
7. The transaction or occurrence giving rise to the liability alleged herein relates to an automobile collision that occurred on June 16, 2017, at approximately 4:50 p.m., in the City of Fenton, Genesee County, Michigan, on or adjacent to 210 Leroy Street.
8. The Eastern District of Michigan is the proper district for purposes of venue.
9. At all relevant times, Defendant USA was the sole owner of the 1991 Chevrolet postal vehicle (“Postal Truck”) bearing the vehicle identification number 1GBCS10E8M2907652, which was being driven by Defendant Edward Scott Dunbar with the consent of Defendant USA and pursuant to the direction of Defendant USA at the time of this collision.

10. At the time of the collision, Plaintiff was riding his bicycle (“Bike”) southerly on the sidewalk immediately west S. Leroy Street approaching 210 S. Leroy Street, Fenton, Michigan.
11. At that time and place, Defendant Dunbar, being the operator of the Postal Truck, altered the direction of the Postal Truck, which was proceeding south on Leroy Street, thus, directing the Postal Truck off of the roadway and toward the Post Office entrance located at 210 S. Leroy Street, Fenton, Michigan.
12. Defendant Dunbar failed to pay attention to Plaintiff who was operating his Bike on the sidewalk and placed the Postal Truck directly into the path of Plaintiff’s Bike, and the two collided.
13. Defendants owed Plaintiff the following duties of care:
  - a. to operate the motor vehicle in a manner and at a rate of speed that would permit it to be stopped within a safe distance, MCL 257.627(1)
  - b. not to operate the vehicle carelessly and heedlessly with willful and wanton disregard for the safety and rights of others, MCL 257.626(2)
  - c. to keep the automobile constantly under control
  - d. to attempt to stop the vehicle when Defendants knew or should have known that failure to do so would naturally and probably result in injury to Plaintiff

- e. to observe the sidewalk in front of Defendants' vehicle when Defendants knew or should have known that failure to observe Plaintiff's oncoming Bike would endanger Plaintiff's life or property
  - f. to yield before leaving the roadway and to yield to all pedestrians who were properly using the areas adjacent to the roadway.
14. By directing the Postal Truck from the roadway and into a collision with Plaintiff, Defendant Dunbar, while at the direction and control of Defendant USA, breached the duty of care owed to Plaintiff by Defendants.
15. As a direct and proximate result of the breach of Defendants' duties, the collision occurred, and the injuries stated in this Complaint resulted.
16. Defendant USA, by and through application of the United States Code as cited herein, is responsible for the actions of its employees in carrying out their assigned responsibilities.
17. As a direct and proximate result of the negligence of Defendants, Plaintiff has suffered, and continues to suffer, serious injuries and mental anguish, pain and suffering, injuries and limitations, including serious impairment of body function or permanent or serious disfigurement and aggravation of any preexisting conditions. Plaintiff's damages include, but are not limited to, the following injuries:


- a. serious injuries to his shoulder, neck and collar bone area of his left shoulder as well as other related and appreciable difficulties, injuries, or consequences that have occurred, developed or aggravated any preexisting problem that might have existed
- b. pain, suffering and mental anguish
- c. wage loss or actual future loss of earnings
- d. other damages, injuries, and consequences that are found to be related to the collision complained of herein that may develop during the course of discovery.

RELIEF REQUESTED

Plaintiff asks the Court to award damages against Defendants in the amount of Four Hundred Fifty Thousand (\$450,000.00) Dollars as requested on Form 95 issued to the U.S. Postal Service, together with any interest, costs and attorney fees for which Plaintiff may be entitled.

SCHMIDLIN & SALIM, P.C.  
Attorneys for Plaintiff

Dated: January 29, 2019

/s/   
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**JURY DEMAND**

Plaintiff hereby demands a trial by jury.

SCHMIDLIN & SALIM, P.C.  
Attorneys for Plaintiff

Dated: January 29, 2019

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